

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

BILLY R. MERCER, JR

Defendant.

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CR. NO.
2:05CR204-T

UNOPPOSED MOTION TO TRANSPORT DEFENDANT BACK
TO STATE PRISON

Comes now defendant Billy R. Mercer, Jr., by
counsel, and submits the following:

1. On September 8, 2005, defendant was indicted
for possession with intent to distribute 15 grams of
methamphetamine (21 USC 841(a)(1)) and
use/carry/possession of firearm in furtherance of drug
trafficking crime (18 USC 924(c)(1)).

2. The offense is alleged to have occurred on
October 10, 2004.

3. Defendant is currently an inmate in the
Alabama Prison System. His AIS no. is 234840. His end
of sentence date for the state sentence is April 21,
2006.

4. Defendant was brought before this Court for
first appearance and arraignment on October 19, 2005,

by Writ of Habeas Corpus Ad Prosequendum issued on September 21, 2005. At the time defendant was transported to this Court he was incarcerated at Alabama's Staton Correctional Facility in Elmore, Elmore County, Alabama. Defendant is now being held in the custody of the U. S. Marshal at the Montgomery, Al. City Jail on the previously issued Writ until conclusion of his case in this Court.

5. The defendant graduated from the State of Alabama prison drug treatment program in May 2005. He informs counsel that he is currently under the drug aftercare program in the Alabama Correctional System. Defendant desires to be allowed to return to the State Prison System at the Staton Correctional Facility while his case is pending in this Court. He cannot participate in drug aftercare while being held in the Montgomery City Jail. In addition all of his property (including legal papers) is being held at the Staton Facility.

6. The Staton Correctional Facility is not a great distance from the federal courthouse and will not interfere with any visitation that counsel will need to conduct with the defendant. Counsel has spoken with Pam Harden of the U. S. Marshal's office and they do not object to defendant being returned to state prison

at Staton as long as the defendant executes a waiver of the detainer, and if the Government does not object. Counsel represents that the defendant has this day filed a waiver of detainer in writing contemporaneously with this motion. Counsel has spoken with AUSA Terry Moorner about this matter and the Government does not object.

Wherefore, based upon the above it is requested that defendant be transported back to the physical custody of the Alabama Prison System at the Staton Correctional Facility to be held for trial in the above styled case, and that the U. S. Marshal have authority to transport defendant back to their physical custody at their designated place of confinement or to this court for court proceedings at any time without further order of this court until such time as these proceedings are terminated.

Respectfully submitted this 13th day of January, 2006.

s/Jeffery C. Duffey
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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

John T. Harmon
Terry F. Moorer
AUSA
P.O. Box 197
Montgomery, AL 36101

Respectfully submitted,

s /Jeffery C. Duffey
JEFFERY C. DUFFEY
Attorney for Defendant
Billy R. Mercer, Jr.

s/Benjamin E. Schoettker
BENJAMIN E. SCHOETTKER
Attorney for Defendant
Billy R. Mercer, Jr.